

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

CARLISA MERRIWEATHER,

Plaintiff,

v.

CIVIL ACTION No. 1:21-00391

KILOLO KIJAKAZI, Acting  
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the court is the motion of Kurt Entsminger to withdraw as counsel for plaintiff. (ECF No. 48). According to Mr. Entsminger he is no longer associated with the Estep Entsminger Law Group who will continue to represent plaintiff. Mr. Entsminger asks that Phillip Estep be substituted as counsel. The docket sheet notes that Shaun C. Southworth of SOUTHWORTH PC continues to represent plaintiff.

Local Rule of Civil Procedure 83.4 which governs the withdrawal and/or termination of representation provides as follows:

An attorney may withdraw from a case in which he or she has appeared only as follows:

- (a) By Notice of Withdrawal. A party's attorney may withdraw from a case by filing and serving a notice of withdrawal, effective upon filing, if:
  - (1) multiple attorneys have appeared on behalf of the party; and
  - (2) at least one of those attorneys will still be the party's counsel of record after the attorney seeking to withdraw does so.

- (b) By Notice of Withdrawal and Substitution. A party's attorney may withdraw from a case by filing and serving a notice of withdrawal and substitution, effective upon filing, if the notice includes:
  - (1) the withdrawal and substitution will not delay the trial or other progress of the case; and
  - (2) the notice is filed and served at least 90 days before trial.
- (c) By Motion. An attorney who seeks to withdraw other than under LR 83.4(a) or (b) must move to withdraw and must show good cause. The attorney must notify his or her client of the motion.

Based upon the foregoing, a motion to withdraw was unnecessary and it is **DENIED** as moot. The Clerk's Office should construe Mr. Entsminger's filing as a Notice of Withdrawal and Substitution pursuant to Local Rule of Civil Procedure 83.4(b).

The Clerk is directed to send a copy of this Order to counsel of record.

**IT IS SO ORDERED** this 25th day of July, 2023.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge